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4 KATHRYN MAYORGA,)
5 Plaintiff,) Case No. 2:19-cv-00168-JAD-DJA
6 vs.) Las Vegas, Nevada
7 CRISTIANO RONALDO,) Friday, September 17, 2021
8 Defendant.) Courtroom 3A
) Motion Hearing

C E R T I F I E D C O P Y

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE DANIEL J. ALBRECHT
UNITED STATES MAGISTRATE JUDGE

17 | APPEARANCES: See next page

19 DIGITALLY RECORDED: Liberty Court Recorder (LCR)
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25 Proceedings recorded by electronic sound recording; transcript produced by machine shorthand and computer-aided transcription.

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1 LAS VEGAS, NEVADA; FRIDAY, SEPTEMBER 17, 2021; 11:05 A.M.

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3 P R O C E E D I N G S

4 THE COURTROOM ADMINISTRATOR: Kathryn Mayorga versus
5 Cristiano Ronaldo, 2:19-cv-168-JAD-DJA. This is before the
6 Court on motions dockets 111, 112, 113, 115, and 124.

7 Counsel, please make your appearance for the record.

8 MS. WORKS: Good morning, your Honor. Kendelee Works
9 and Pete Christiansen on behalf of Cristiano Ronaldo.

10 THE COURT: Good morning.

11 MR. STOVALL: Leslie Stovall for the plaintiff.

12 THE COURT: Good morning.

13 MR. STOVALL: Good morning.

14 THE COURT: All right. Let me get my paperwork here
15 in order.

16 So the parties know, my staff and I have been fully
17 vaccinated. Obviously, I agree with our chief's order
18 regarding the mask mandate. As you saw, I had it on when I
19 came out. I will keep it off during the hearing. We are going
20 to be far enough apart. Of course, I don't have any symptoms,
21 and being fully vaccinated, I think I'm fine. I assume the
22 parties won't have a problem with that.

23 I won't ask you to come to the podium if you don't
24 want to. You can just argue from counsel table. And if you
25 would like to do it with your mask on or off, I'll leave that

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1 to you, as well.

2 As you can see, in the new world -- that's fine if
3 you're vaccinated and want to take it off. That's fine, as
4 well. And in the new world, we have bottled water as opposed
5 to the community water.

6 Mr. Stovall, do you want to make a comment about the
7 mask issue or COVID protocols?

8 MR. STOVALL: No. I understand while sitting here
9 during argument, I can be unmasked.

10 THE COURT: Yes. Yes.

11 MR. STOVALL: Okay. For the record, I've had my
12 vaccinations.

13 THE COURT: All right. All right. Thanks.

14 MR. STOVALL: Yeah.

15 THE COURT: All right. Let me take a look here and
16 let you know what we're going to do and in what order. So I
17 intended -- well, let me back up.

18 As my clerk indicates, we're here on 111 and 112 which
19 are essentially the same thing, 112 being the redacted version
20 of the motion for sanctions.

21 I am not going to rule today from the bench on that
22 one. I'm going to take that under advisement. I'm going to
23 want to hear from the parties on a number of issues and I will
24 take that one last. And just so you know, we'll be issuing an
25 order or report recommendation depending on which way it falls.

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1 On 113, that's the defendant's motion to seal with the
2 response at 126 and the reply at 132.

3 At 124 -- 115 is the motion to extend the time for
4 discovery. Response is the -- defendant's response is at 116
5 and the reply is at 120.

6 And then the motion for in-camera review is 124.
7 Defendant's response is 134 and the reply is 138.

8 I intend to rule from the bench on those three so that
9 you'll have an answer on those today. I think it's obvious why
10 those are a little less complicated than the other ones.

11 I will entertain real brief argument on those, but
12 I'll try to direct you where I want that on those three before
13 we get into what I think is obviously the most meaty motion
14 which is the motion for sanctions.

15 So why don't we address 115 first, which is the motion
16 to extend the time to respond to discovery. The way I see this
17 is essentially what the parties are asking -- or at least the
18 plaintiff is asking the Court to do is to extend the time for
19 the discovery cut-offs to June 8th, which would be an extension
20 of six days which is when they were delivered, and essentially,
21 if I do that, discovery would then be closed and those matters
22 would be deemed timely. Obviously, if I didn't do that, and I
23 think what is underlying the motion itself is whether or not --
24 if I don't do that, whether there -- or those would be deemed
25 admitted.

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1 So let me summarize your arguments and the law, tell
2 you what my thoughts are and then see if you want to add
3 anything.

4 As I indicated, the plaintiffs were originally to
5 respond to the discovery requests on June 2, 2021. And
6 apparently, plaintiff e-mailed defense counsel that they were
7 going to meet the deadline that afternoon, but apparently when
8 preparing with the plaintiff that afternoon and into the
9 evening, given what was occurring, plaintiff's counsel decided
10 to stop the session with the plaintiff so that they could not
11 respond to those discovery requests.

12 According to the documents, plaintiff decided it was
13 too late to e-mail defendant -- defense counsel to ask for an
14 extension and instead started working on the motion to extend.

15 Defense opposes the motion to extend arguing that the
16 plaintiff did not meet and confer pursuant to the local rules
17 before filing the motion. Plaintiff's counsel then delivered,
18 while these motions were being done, the discovery responses on
19 June 8th.

20 Plaintiff's counsel apparently asked defense counsel
21 to agree to extend the time to respond to June 8th and render
22 the motion moot. Apparently defense counsel responded that
23 they did not want to waive their client's right to have the
24 answers deemed admitted and would not agree. And so we are
25 here on the motion to extend the discovery response on those

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1 responses received on June 8th.

2 The Court knows -- or as the parties know, under
3 Federal Rule of Civil Procedure 36(a)(3), a matter is deemed
4 admitted if a party misses the 30-day deadline in answering a
5 discovery request. However, 36(b) gives the Court discretion
6 to grant a party relief for the admission if, number one, it
7 would promote the presentation of the merits of the action, and
8 number two, if the Court is not persuaded that it would
9 prejudice the requesting party in maintaining or defending the
10 action on the merits.

11 So as I see it, then the issue is whether or not I'm
12 going to extend the time and therefore they would not be deemed
13 admitted or whether I deny that request in which case the --
14 the discovery requests would be deemed admitted.

15 Is there anything -- I think I've summarized it,
16 Mr. Stovall, for what I need to consider here today. Is there
17 anything on that issue that you want to let me know or that you
18 think should be brought to my attention?

19 MR. STOVALL: No. No, your Honor. We submit it.

20 THE COURT: All right. Anything else, Ms. Works or
21 Mr. Christiansen?

22 MS. WORKS: (Unintelligible) on the briefing.

23 THE COURT: All right. Well, I will find in this
24 instance good cause to extend the deadline to June 8th using
25 the discretion given to me under Rule 36. I find deeming them

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1 admitted to be harsh given the facts and circumstances. I do
2 find that if I granted, I am promoting the presentation of the
3 case on its merits and I don't find that there's prejudice to
4 the defense other than the prejudice that (unintelligible) that
5 I'm not getting them admitted, which is prejudice. But I don't
6 find any other prejudice given the six days such that I should
7 deny the request and deem them admitted. I just did not see
8 compelling reasons to deem them admitted given the nature of
9 what those requests were.

10 And so I will grant plaintiff's motion to extend the
11 time to respond to the discovery requests at 115 and will find
12 that they were timely given, that they were submitted on
13 June 8, 2021.

14 I will remind counsel that needing to prepare these on
15 the day that they are due is probably not the best practice
16 given what happened here. It doesn't allow for enough time to
17 meet and confer and address these issues. And I do see that
18 there seems to be a little bit of a trend in terms of meeting
19 these deadlines and the like with this case.

20 And so I would direct in the future, Mr. Stovall, that
21 we try to get these things a little sooner so that we don't run
22 into these sort of situations. But that will be the ruling on
23 115.

24 Let's go to 113 which is the defendant's motion to
25 seal. As I indicated, the response is at 126 and a reply at

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1 132.

2 Essentially, the defense is requesting that what we've
3 deemed the Football Leaks documents contained in plaintiff's
4 production and in the LVMPD file as Exhibits D and P that are
5 attached to their motions for sanctions, that those documents
6 be sealed. And they've also declared a declaration from
7 Mr. Ronaldo's attorney at Exhibit W attesting to the security
8 measures that the attorney's office had in place when this hack
9 apparently happened that led to the confidential and privileged
10 documents being stolen and they're requesting that Exhibit W be
11 sealed, as well.

12 And they seek to seal those exhibits, as I've
13 indicated, and then ten lines in their motion where they quote
14 from those exhibits.

15 I would note that earlier in the case, Judge Dorsey
16 denied the defense's request to seal the entire case. That was
17 at ECF number 23. But in that order, Judge Dorsey found that
18 some documents, including the settlement agreement, the
19 associated signed agreement, and direct quotes from them should
20 remained sealed. And as I previously recommended -- a
21 recommendation that Judge Dorsey accepted -- we found that
22 certain Football Leak documents should be stricken from one of
23 the plaintiff's responses. And that was in ECF number 67.

24 Plaintiff opposes defendant's motion to seal those
25 documents arguing that they are seeking reconsideration of

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1 Judge Dorsey's order denying their request to seal the entire
2 case. And that order I referenced from Judge Dorsey was number
3 23.

4 So as I see the summary of the law, if a party seeks
5 to seal judicial records in connection with the dispositive
6 motion or a motion "more than tangentially related to the
7 merits of the case," that party must meet "the compelling
8 reasons" standard. And that's Kamakana versus City and County
9 of Honolulu, 447 F.3d 1172. My quotes come from page 1178
10 through 79. That's a Ninth Circuit case, 2006. Also, as the
11 parties know, Center for Auto Safety versus Chrysler Group,
12 LLC, 809 F.3d 1092 at 1101, Ninth Circuit, 2016. Both support
13 that proposition.

14 Here, the compelling reasons standard applies because
15 defendants seek case dispositive sanctions and plaintiff
16 asserts that the documents over which the parties have filed
17 these motions are related to the plaintiff's capacity to
18 contract.

19 I do believe that the compelling reasons to seal
20 judicial documents can include when the documents are used for
21 improper purposes, to promote public scandal, gratify spite,
22 circulate libelous statements. Embarrassment, incrimination,
23 or exposure to further litigation are not enough. And, again,
24 that comes directly from Kamakana at pages 1178 through 79.

25 And then our court here has previously accepted the

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1 attorney/client privilege and work product doctrine as
2 compelling reasons to seal documents. And I would point
3 parties to Asdale versus International Game Technology. That's
4 a 2010 Westlaw case, 2161930 at note 5, and that's from May 28,
5 2010.

6 And I will let the parties know that I don't see this
7 as a situation where the defense is trying to relitigate Judge
8 Dorsey's prior order. I don't see them trying to seal the
9 entire case, just the three documents or exhibits that I've
10 outlined, D, P, and W. And at this stage, I'm inclined to
11 think they've shown compelling reasons to seal those documents.

12 But I'll hear, you know -- well, actually, Ms. Works,
13 this is your motion so I'll hear from you if you think there's
14 anything else that I should know given my comments about which
15 way I'm leaning.

16 MS. WORKS: Given the Court's comments, your Honor, we
17 would submit it on the brief, as well.

18 THE COURT: All right. And Mr. Stovall, anything else
19 you want to add or address as it relates to the sealing of
20 those documents?

21 MR. STOVALL: No, your Honor.

22 Although, I think the rulings on these other matters
23 may have some effect depending on how the Court decides.

24 THE COURT: Right. Well -- and I'm not going to make
25 a decision on the attorney/client privilege at this stage one

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1 way or the other. I think that's probably left for the other
2 motion.

3 But at this stage, I do think that the defense has
4 made an argument that the documents are privileged. It does
5 look on their face like they are between attorneys,
6 attorney/client documents. We have already decided to strike
7 the documents from another filing so in order to protect the
8 defendant's attorney from potential future hacks as well, that
9 document has attorney/client privilege information as well and
10 I think we should certainly seal that as well given it contains
11 information and explanation for the type of security measures
12 that he has in place as outlined in Exhibit W. So I do find
13 that compelling, as well.

14 And so I find that the defense has carried the burden
15 of showing that there are compelling reasons why these
16 documents should be sealed and so I will grant the defendant's
17 motion to seal found at 113. Exhibits D, P, and W to their
18 motions for sanctions found at 111 shall remain sealed. And
19 again, I -- that's simply on the sealing issue and not on
20 anything else as to the nature of those documents.

21 All right. Let's move then to number 124 which is the
22 plaintiff's motion for in-camera review of documents.

23 Now, plaintiff is arguing in response to the
24 defendant's motion for sanctions that this Court should review
25 the Football Leak documents in-camera to decide whether the

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1 crime fraud exception to the attorney/client privilege applies.

2 Essentially, the plaintiff argues that the Football
3 Leak documents show that defendant and his attorneys were
4 shielding the defendant's criminal conduct and perhaps
5 prosecution by the LVMPD for that conduct by negotiating and
6 entering into the settlement agreement, and therefore, requests
7 that I review those in-camera to determine whether or not the
8 crime fraud exception exists.

9 Defendants object arguing that the plaintiff already
10 has reviewed and used the Football Leak documents so their
11 request for an in-camera review is too late.

12 They also argue that plaintiff has already
13 unsuccessfully argued crime fraud because Judge Dorsey
14 overruled their objection containing that argument and the
15 order adopting the report and my recommendation at number 72.

16 Defendant also objects that the evidence plaintiff
17 uses to ask the Court to review these documents do not meet the
18 fraudulent scheme standard.

19 And then finally, the defense objects that the alleged
20 criminal conduct -- that is the sexual assault -- took place
21 and ended before the defendant began using lawyers to negotiate
22 a settlement so that he's not using the attorney/client
23 privilege to shield ongoing conduct.

24 So briefly, the crime fraud exception provides that
25 the attorney/client privilege does not apply to the

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1 communications made for the purpose of getting advice for the
2 commission of a fraud or a crime. That's pretty -- pretty old
3 and standard law, but it started with United States of America
4 versus Zolin, 491 U.S. 554 and 562, 1989 case.

5 And certainly while the Court may review privileged
6 documents in-camera to decide whether the crime fraud exception
7 applies, in-camera review is typically conducted when one party
8 has the documents and the other party doesn't. It usually
9 occurs in settings where the party that doesn't want the Court
10 to review these documents to determine whether or not they're
11 entitled to them or perhaps the party who has them wants to
12 give it to the Court to let the Court see them and say this is
13 why they shouldn't get them and then the Court makes that
14 in-camera determination.

15 Again, in criminal cases, the context comes up often
16 where the Government is seeking to protect people or protect
17 investigations and gives it to the Court so the Court can make
18 a determination. And again, that's when the Court does not
19 already have those documents.

20 But here, I've already reviewed them in-camera because
21 they've already been provided to the Court and multiple
22 documents related to multiple arguments. Both sides have
23 access to it so it's not up to the documents. It's not like
24 one side has it or the other side doesn't have it. In fact, I
25 think they're attached in their entirety as Exhibits D and P,

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1 which I just sealed. So I've had access to them. So I'm
2 trying to find why I need to do any further in-camera
3 inspection or review of the documents when we've already done
4 that.

5 Now, I suspect, Mr. Stovall, at the time you filed
6 that, perhaps you didn't know or realize the extent to which we
7 would have those documents already, but I think this is already
8 moot because I've already reviewed them in-camera.

9 MR. STOVALL: Well, your Honor, the application of the
10 crime fraud exception extends beyond just the Football Leak
11 documents. What we're talking about is all communications and
12 documents exchanged -- not exclusive, not inclusive of these --
13 between these parties if this Court were to determine that what
14 was happening was the defendant and his attorneys were engaged
15 in compounding or misprison of a felony. And that is not the
16 rape. It is the criminal prosecution.

17 So the -- part of the objection I understood from the
18 defense is, "Well, you can't look at the documents that have
19 been provided so far because those are within the
20 attorney/client privilege."

21 What we're really saying is that these documents that
22 you have, we would ask that you review them for purposes of
23 determining whether or not the defendant can shield itself on
24 all of its communications with its attorneys or between those
25 attorneys because of the nature of the communications that were

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1 occurring.

2 And we've set forth the threshold -- we've identified
3 the documents and the correspondence which the plaintiff felt
4 met the threshold requirement for that purpose.

5 Now, there are cases -- I think Christiansen is one of
6 the cases where the Court didn't follow Zolin but said, "Yeah,
7 we didn't follow Zolin. We're going to go back and take a look
8 and then make that determination." And there's no reason this
9 Court cannot, at this time, make that -- use that process in
10 Zolin to determine -- make that determination.

11 And it's important in this case because that is really
12 the essential issue on sanctions. The question becomes and
13 what the defendant has been arguing is -- and it's based on the
14 assertion that these documents are within the attorney/client
15 privilege.

16 If they're not, then their motion for sanctions fails.
17 If they are, then the Court should consider the standards for
18 whether or not sanctions should be applied or to what extent
19 they should be applied in this case.

20 But that central question becomes, are these documents
21 subject to the crime fraud exception, and if they are, do
22 they -- does the attorney/client privilege -- is it available
23 for the defendant to shield themselves from discovery of all
24 the communications between the defendant, the defense lawyers,
25 and between the defendant's lawyers and their representatives.

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1 Because, you know, we got some more lawyers involved in this
2 thing, too.

3 Now --

4 THE COURT: Well, so the issue then is -- I mean, I
5 think I'm hearing you say there's two issues, and if I'm
6 hearing you correctly, I'm inclined to agree that there are two
7 issues. That is, does -- does the crime fraud exception apply
8 in terms of the privileged nature of the communications.

9 MR. STOVALL: Right.

10 THE COURT: And obviously if it does, then their
11 motion for sanctions is far less -- is far weaker because
12 they're not privileged communications.

13 But the second issue is, you know, this idea that I
14 look at them in-camera. Is there something that I haven't --
15 that hasn't been presented to me that you would want me to
16 review in-camera? I just don't know that that's -- I mean, I
17 hear you. That's the decision I have to make on the next
18 motion that I'm going to hear argument on. But I don't know
19 that I need to have some sort of in-camera review of documents.

20 MR. STOVALL: Well, I do, because our circuit, the
21 Ninth Circuit and the Supreme Court said that the Zolin steps,
22 the procedure under Zolin is required and --

23 THE COURT: But I already have it all. Don't I? Is
24 there something I don't have?

25 MR. STOVALL: No, you do. You have everything I've

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1 got. Right? No, you do. You have everything I've got and
2 everything I think the defense has at this point.

3 But the question becomes is whether or not the
4 process, the two-step process under Zolin has been complied
5 with so that on review, that doesn't become an issue.

6 And the process is first, is there a threshold -- did
7 the moving party meet the threshold for review of the
8 documents. And we would ask the Court to make that
9 determination. Yes, there is sufficient evidence that there
10 may have been -- that the crime fraud exception may apply to
11 allow for in-camera. And then for the Court to make a finding
12 on the in-camera examination as to whether or not the crime
13 fraud exception applies.

14 So those are two different standards. They're two
15 different things that the Court, I believe, is required to do
16 and that's what we're asking the Court do. One, did we meet
17 the threshold. That's step number one under Zolin. Number
18 two, once the Court has examined, does the crime fraud
19 exception apply or does it not.

20 Those -- and so, yes, I'm very much aware that the
21 documents were in, but I think the case law here in the Ninth
22 recognizes that there's a two-step process, and if the Court
23 hasn't followed that two step process, that it should and it
24 can remedy it or can correct it for purposes of establishing
25 the record. Yes, we met number one and here's the result on

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1 number two.

2 And I believe Christiansen speaks to that.

3 Does that answer?

4 THE COURT: Well --

5 MR. STOVALL: Well -- and I think there's a third
6 issue, your Honor, which is the scope of the application of the
7 crime fraud exception. Should this Court find, for example,
8 that yeah, it appears to the Court that the crime fraud
9 exception applies, what -- what does it apply to? We're not --
10 you know, the Football Leak documents within this case are
11 certainly at issue.

12 THE COURT: Well, so what else -- so let's get that --
13 what documents are you -- so what I'm hearing is under the
14 Ninth Circuit case law, there's a two-step process, which --

15 MR. STOVALL: Correct.

16 THE COURT: -- you know, we all probably go through
17 anyway when we're doing in-camera review.

18 But first of all, what -- are there more than the
19 Football Leak documents that you're asking me to review? I'm
20 not clear on that.

21 MR. STOVALL: No. What I'm saying to the Court and
22 what -- and I hope I may clarify this.

23 What I'm saying is these Football Leak documents
24 really are the opportunity for the Court to determine and we're
25 asking that the Court determine whether or not the

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1 attorney/client privilege applies to any communications between
2 the defendant and the defendant's lawyers or between lawyers or
3 between their representatives.

4 THE COURT: Aren't I going to do that in the sanction
5 motion anyway?

6 MR. STOVALL: I don't know. Because --

7 THE COURT: Well, I am.

8 MR. STOVALL: Okay.

9 THE COURT: I mean, I think the analysis has to
10 contain -- because if they're not confidential, then my
11 concern -- you know, the concern I have as it relates to the
12 sanctions, and now I guess we're bleeding over into that
13 argument, but the concern I have obviously will be if these are
14 confidential attorney/client privilege documents that you
15 obtained that are privileged that aren't crime fraud exception
16 or anything else that you obtained, you know, and then used
17 entirely as a basis to reopen this case eight or nine years
18 later, that's much different to me than if there's a crime
19 fraud exception privilege and they're not privileged and
20 they're already out there in the public. Then the actions of
21 an attorney are looked at much differently than if that
22 attorney somehow nefariously gained the attorney/client
23 (unintelligible).

24 MR. STOVALL: That's correct.

25 THE COURT: So that decision is going to be made in

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1 the context of the sanctions motion.

2 MR. STOVALL: I understand that, your Honor.

3 I'm -- my only concern is that the plaintiff is not
4 just speaking to the application of the attorney -- the crime
5 fraud exception with regards to the Football Leak documents
6 that have been identified within this case or disclosed in this
7 case. There's a much broader issue. And that is -- and is --
8 are any communications between the defendant and his lawyers
9 and between the defendant's lawyers and other representatives,
10 are any of those privileged. I would argue they are not.

11 And my concern is this: Let's say the plaintiff comes
12 through the motion for sanctions and eventually this case goes
13 to arbitration. This Court's orders may restrict discovery in
14 arbitration and it's my understanding this Court has carved out
15 the question of legality of contract for arbitration along with
16 the other claims. And the extent -- the orders that this Court
17 enters here may well be argued by the defense as limiting the
18 scope of discovery and arbitration.

19 Quite frankly, as I briefed to the Court, I thought
20 this issue had been disposed of, you know, that we had -- the
21 Court had carved out the capacity issue and said, "We're not
22 going to deal with anything else. We're going to look at
23 capacity. All this other stuff is going to go to arbitration
24 including crime fraud and illegality," and the Court deferred
25 the crime fraud exception argument not to encroach upon the

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1 illegality of contract argument that was deemed to be
2 arbitrable.

3 THE COURT: Let me ask you this. Are you suggesting
4 that perhaps this -- I mean, I don't know that -- that this
5 issue should go before the arbitrator, whether or not --

6 MR. STOVALL: Well, I had always -- well, yes, that
7 was my understanding before the motion for sanction was filed.

8 I really had not pursued these issues and stayed away
9 from these issues because I had understood this Court to have
10 carved out one issue and said stay away from everything else.
11 And it's logical. It makes sense that the Court said, "I'm not
12 going to decide the crime fraud exception because if I decide
13 it, I essentially" -- the Court would essentially decide the
14 illegality of contract issue.

15 If this Court were to find crime fraud applies, then I
16 think that impacts the -- or decides the question of legality
17 of the contract.

18 THE COURT: But I don't think you -- you didn't argue
19 in your response that this should be before the arbitrator, did
20 you?

21 MR. STOVALL: Well, I did.

22 Well, I meant -- by -- perhaps I wasn't clear enough,
23 but if you read both of the oppositions to sanctions and the
24 motion to -- for in-camera, what I was trying to describe to
25 the Court is my view of what the standing orders in the case

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1 had done that, they had carved out capacity and deferred crime
2 fraud and illegality.

3 And in fact, the Court, in deferring crime fraud -- a
4 decision on crime fraud, made a decision not to encroach on the
5 illegality of contract which was deferred to -- or found to be
6 arbitrable.

7 If you look at Rule -- court order 72, I -- and your
8 previous order, number 60, I think that's what you and Judge
9 Dorsey really decided that, "We're not going to get into that.
10 Let's take care of the capacity and you guys take all this
11 stuff over to arbitration."

12 And that's what concerned me about the defendant's
13 motion for sanctions is because, you know, I had this view
14 we're looking at capacity. We're going to work towards that.
15 I had stayed away from the attorney/client privilege issue and
16 the crime fraud issue. And, boom, we get this motion. And --

17 THE COURT: Well, so, do you think the arbitrator
18 would be able to toss this case based upon that motion? Would
19 that be in the arbitrator's authority under the arbitration
20 provisions or is that something only the District Court can do?

21 MR. STOVALL: No. I think an arbitrator has the
22 opportunity to consider a motion for terminal sanctions, any of
23 the sanctions within the -- that are on issues that are
24 arbitrable.

25 I absolutely believe that the arbitrator can do that.

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1 THE COURT: Well, so let me back up then and go back
2 to 124.

3 What I'm hearing you say is you think that under Zolin
4 and its progeny and the like, that I should be doing an
5 in-camera review to make a threshold requirement whether or not
6 the crime fraud exception applies and that's why I should do
7 this in-camera.

8 MR. STOVALL: I think that the Court --

9 THE COURT: And then I go to the next step and make a
10 decision later?

11 I mean, this first step, you think -- almost seems
12 like a prophylactic step that I -- when I've already seen all
13 these documents, I already have all these documents. I don't
14 need to make an in-camera determination. I'm going to make a
15 finding one way or the other as to whether -- or maybe a
16 recommendation --

17 MR. STOVALL: Yeah.

18 THE COURT: -- to Judge Dorsey one way or the other as
19 to whether the crime fraud exception applies.

20 So why do we need an extra step of an in-camera to
21 make a predetermination when that's ultimately the
22 determination I'm going to make?

23 MR. STOVALL: My reading of Ninth Circuit decisions is
24 that they view Zolin as requiring the two steps to be complied
25 with, and the Ninth Circuit, when that has not been done, they

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1 have said, okay, it wasn't done but the District Court went
2 back and complied and made the Step 1 finding, even though they
3 looked at everything, and then made a decision on Step 2 and
4 that's okay.

5 So I read the Ninth Circuit cases as requiring that
6 two step, and really all I'm asking the Court to do is when you
7 are making your findings in this case, to make a finding on
8 Step 1 for the record and then make your finding on Step 2 --

9 THE COURT: All right.

10 MR. STOVALL: -- so that we avoid -- we avoid that
11 procedural problem if this case goes up to the Ninth.

12 THE COURT: Part of my job is to avoid all those
13 (unintelligible).

14 So -- all right. So let me hear from --

15 MR. STOVALL: Sure.

16 THE COURT: -- Ms. Works on the issue of that process.

17 And I'm inclined to just do it out an abundance of
18 caution and not rule on this and just incorporate it into my
19 ruling as it relates to the sanctions motion, but I'll hear
20 from you if you want to add something.

21 MS. WORKS: Thank you, your Honor.

22 Your Honor, the problem here is plaintiff rendered
23 Zolin moot three years ago when plaintiff's counsel, on her
24 behalf, intentionally obtained these documents from a
25 third-party source and then relied on them throughout the

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1 entirety of this case in bringing the action.

2 So the time -- it's incredulous that they want us to
3 engage in this process today when the time to engage in that
4 process under Zolin and its progeny was three years ago before
5 they read, digested, analyzed all of these documents and used
6 them to prosecute this case.

7 So that step was rendered moot by plaintiff's conduct
8 three years ago. So there's no reason for the Court to engage
9 in an in-camera review today.

10 Although, your Honor's correct that obviously the
11 documents are before them in a different capacity. Albeit,
12 they have been stricken with the exception of the 200-ish
13 documents that were never disclosed to defendant in this case.
14 So they've already been stricken. The attorney/client
15 privilege, it's -- they're privileged on their face. They've
16 been stricken. They've been sealed.

17 And so even if the Court engaged in this Zolin process
18 to afford plaintiff the relief, which really is forgiveness,
19 Judge, they should have been asking permission three years ago.
20 Today they're asking for forgiveness. So they want the Court
21 to engage in a process that plaintiff rendered moot by her own
22 conduct and her counsel's conduct.

23 But even if the Court were to consider that process,
24 plaintiff can't make the showing under Zolin that an in-camera
25 review would be required in the first instance because there

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1 has to be some evidence besides the privileged material to make
2 a good faith showing by a preponderance of the evidence that
3 there's a reasonable belief that the privileged material is
4 going to show evidence of the crime fraud exception.

5 So even if the matter were properly before the Court,
6 plaintiff doesn't have any evidence other than the privileged
7 material which plaintiff cites for pages in opposition to the
8 motion for sanctions and in the -- I believe the reply and
9 their motion for in-camera review. Their sole documents, which
10 they say demonstrate evidence of crime or a fraud, that Rick
11 Wright committed a fraud or that Mr. Ronaldo's other attorneys
12 committed some sort of fraud, the sole evidence they rely on is
13 the privileged attorney/client communications. And they cite
14 it to the Court for pages. That's not ever going to meet the
15 standard under Zolin. So the process was rendered moot three
16 years ago.

17 And number two, even if they had done it correctly,
18 they wouldn't have any evidence to put forth to the Court other
19 than a settlement agreement and under the -- and the master
20 case. Evidence that a case was settled and resolved and
21 someone limited their liability by resolving a case is not
22 evidence of a crime or any kind of fraud on the Court.

23 So they could never have made that showing before and
24 they certainly can't make it today when they've already
25 rendered the issue moot.

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1 So we would ask that the Court deny the motion, your
2 Honor.

3 THE COURT: All right. I am going to take that under
4 advisement --

5 MR. STOVALL: Thank you.

6 THE COURT: -- and include it in my ruling with 111
7 out of an abundance of caution.

8 I'm inclined to think that they did render it moot
9 given their actions, but I don't know that I'm inclined or
10 ready to make that decision here today and so I will consider
11 it in the context of the arguments we're about to hear on the
12 last motion and that will just be included probably in an
13 omnibus order or report recommendation to Judge Dorsey,
14 whichever way it's going to go.

15 But I think, given the nature of this case, what has
16 happened in the past and what will probably happen in the
17 future with my rulings and everything else, out of an abundance
18 of caution, it's probably better to have it all in a written
19 order.

20 So I will rethink what I said at the beginning and
21 will not rule on that one today. I'll take that one under
22 advisement, as well.

23 So Mr. Stovall, is there everything else you want on
24 that before I hear from the parties on the motion for
25 sanctions?

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1 MR. STOVALL: Thank you very much. Just very briefly.
2 I would like to comment on the question of waiver.

3 When you look at the Zolin cases, waiver isn't found
4 in those decisions, the cases I've read. I may not have caught
5 them all, may have missed that, but the posture in this case is
6 either those documents are presumptively privileged --
7 presumptively privileged is a word of art within the Zolin case
8 law. It identifies documents where a party is asserting the
9 attorney/client privilege in which the other party is saying,
10 "Wait a minute, the privilege doesn't apply because of Zolin."

11 I would ask the Court to keep in mind the distinction
12 between the Jackson and Xyngular -- I think that's how you
13 pronounce -- Xyngular Swanker [sic] case and the Zolin cases.
14 They don't overlap. Those cases do not discuss and do not
15 refer to the crime fraud exception. And in fact, my
16 impression, when I look at the -- these lines of cases, the
17 Court isn't concerned about Jackson and Swanker when there is a
18 crime fraud exception consideration.

19 And that goes to the language of Zolin. In Zolin, the
20 Court talked about -- and called it an aggressive investigation
21 or discovery. It was one of the considerations that the
22 Supreme Court made in adopting the standard it did which is a
23 much lower standard than positive proof of crime fraud in
24 step -- doing the Step 1 analysis and then looking at the
25 documents. So I would just ask the Court to keep in mind that

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1 I haven't seen case law where you can waive consideration of
2 the crime fraud exception.

3 And furthermore, this plaintiff -- this defendant has
4 continuously asserted the crime -- I mean the attorney/client
5 privilege and its application to these documents.

6 So thank you.

7 THE COURT: All right. Well, then let's address the
8 main reason we're here.

9 And so let me ask you, Ms. Works, and perhaps I should
10 have considered this earlier and didn't necessarily consider
11 it, and that is whether this is something that should be
12 determined by the arbitrator or our court. Why our court?

13 MS. WORKS: Your Honor, it should be determined by
14 this court because plaintiff's conduct -- plaintiff put
15 (unintelligible) before this Court and its (unintelligible)
16 under counsel's conduct that has tainted the entirety of the
17 proceedings.

18 And so the Court should -- this Court should determine
19 whether or not to dismiss the case based on case terminating
20 sanctions or disqualify Mr. Stovall and his law firm from
21 continuing their representation because we can obviate the need
22 to go to arbitration at the outset and further litigate this
23 case because plaintiff isn't entitled to litigate the case
24 because they based it on intentionally obtaining stolen and
25 privileged attorney/client communications. The case shouldn't

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1 exist in the first place.

2 This is an attempt to obtain stolen documents in order
3 to unwind a settlement from a decade earlier in the height of
4 the "Me Too" movement to obtain additional money despite having
5 retained the full settlement funds, despite having complied
6 with the settlement, both sides, for more than a decade until,
7 for the first time, Ms. Mayorga's name is -- she is identified
8 by name in the press, not by Mr. Ronaldo, but after she sits
9 with her lawyer for an interview with a German publication and
10 her name is then disclosed days after the original complaint
11 was filed in state court.

12 So here, we have an attempt to unwind the deal by
13 obtaining stolen, privileged documents, basing their entire
14 case on those documents, prosecuting the case on those
15 documents, but not disclosing to defense that they have those
16 for more than 14 months after obtaining them.

17 And so the matter is before the Court because
18 plaintiff's conduct and that of her counsel has been before
19 this Court. And so this Court has inherit authority to dismiss
20 an action and to impose dismissal as a sanction for violating
21 the integrity of the judicial process and intentional
22 misconduct. And that's exactly what the Court has here.

23 THE COURT: Okay. Let me ask -- while I'm in the
24 "asking question" mode -- what do you have or why is it that
25 you believe that plaintiff's counsel provided Metro with more

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1 than what they provided you?

2 MS. WORKS: Sure. So a quick review and if -- I think
3 if we go to our reply brief, your Honor, we list out at least
4 60 identifying documents by Bates number that were contained
5 within Metro's file but were not contained within Exhibits 4
6 and 5 to plaintiff's opposition to defendant's motion to compel
7 arbitration. And that's just a sampling, your Honor. So
8 there's about 400 more documents total in Metro's file, what
9 Metro produces, there are 400 more Football Leaks documents.

10 And admittedly, you know, plaintiff argued that
11 they're just different formats, they just look different. And
12 there are some that are the same content, your Honor, but --
13 and formatted differently, but there's additional documents
14 that the content is not contained in Exhibits 4 and 5 which
15 plaintiff actually produced.

16 Now, plaintiff never produced the full Metro file.
17 Defendant went and subpoenaed it. Albeit, plaintiff provided
18 an authorization which would have been required by the Court
19 anyway.

20 So what we have in there -- and we've identified it
21 and I'll provide the Court with the citation. In our reply
22 brief, there's a -- Footnote 5 on page 6, and that's just a
23 sampling, your Honor, to be honest. We didn't go through every
24 single document, 400 pages, line by line, but what we were able
25 to do is OCR both Exhibits 4 and 5 and the Metro file and

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1 search for key terms.

2 And there are key terms that appear on all of these
3 documents in the Metro file that simply are not contained in
4 Exhibits 4 and 5. And so those documents were never disclosed
5 to plaintiff. So not only do you have them intentionally
6 obtaining them in the first place, keeping them for 14 months,
7 but you also have additional documents that they provided to
8 Metro, admittedly asking Metro to prosecute based on
9 attorney/client privileged documents that they then don't
10 disclose at all to plaintiff -- or to defendant.

11 THE COURT: Could Metro have -- could Metro not have
12 obtained those documents from other sources, other --

13 MS. WORKS: Well, they would have -- in theory, they
14 could have, but there's two cover letters -- and still, it
15 would be questionable whether they would be able to obtain
16 attorney/client privilege. Then you may (unintelligible) on a
17 Zolin issue which is to say, should they be able to have those
18 attorney/client privilege, is there evidence of some sort of
19 crime or fraud.

20 Because, remember, all of these documents, your Honor,
21 are after the fact. They're after the sexual assault.
22 Mr. Ronaldo goes and obtains a lawyer in order to defend
23 himself again plaintiff's accusations once she decided to
24 pursue civilly, not criminally. But the reality here is
25 there's two cover letters from Mr. Stovall in Metro's file in

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1 which he says, "I'm providing you all of these documents from
2 Football Leaks," and they show evidence of some sort of crimes,
3 some sort of fraud. Notably, of course, Metro never filed any
4 action against Mr. Wright or any of Mr. Ronaldo's other lawyers
5 and doesn't file any action against Mr. Ronaldo.

6 THE COURT: So -- and I think that's the rub-in. So
7 we're all on the same page as to what crimes we're talking
8 about, I don't think the plaintiff is talking about the crime
9 being the sexual assault. I think they're talking about some
10 sort of either obstruction of justice or misprison of a felony
11 since my criminal days of trying to get something other than a
12 felony. But something other than just by the lawyers doing
13 this is what they're alleging that they were trying to cover up
14 or try to not -- or try to prevent the prosecution, as it were,
15 of the defendant. And that's what the crime is, the lawyers
16 doing that.

17 And so you don't believe then or there isn't any
18 indication to you that Metro was doing a concurrent
19 investigation or a similar investigation and might have
20 obtained these documents?

21 MS. WORKS: There's no indication in Metro's file,
22 your Honor.

23 And even in an opposition to our motion, plaintiff
24 can't -- has never expressly said, "We didn't provide Metro
25 with those documents. Those weren't documents we never

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1 obtained. We never had possession of those documents."

2 And so -- and there's also no indication -- it's
3 notably absent from Metro's file all together. There's a
4 listing of where they obtained certain things and were provided
5 certain documents and never once do they say, "Well, we went
6 and subpoenaed Football Leaks because we wanted to investigate
7 the lawyer's conduct or we're considering additional charges,"
8 anything like that.

9 THE COURT: And out of curiosity -- and I don't know
10 how this plays in, but the law at the time that this occurred,
11 was there a statute of limitations on this criminally, on the
12 sexual assault at the time, or does this fall under the new
13 laws that have been passed here recently where this is no
14 statute of limitations?

15 MS. WORKS: Your Honor, it would have fallen under the
16 earlier law which provided at that time that if a victim of
17 sexual assault had reported the allegation, then the statute of
18 limitations would be tolled essentially or would not apply.

19 But because plaintiff never identified Mr. Ronaldo to
20 Metro, to law enforcement, there's a very strong argument,
21 which I don't believe Metro or the DA's office ever arrived at
22 because they simply determined that it was not warranted to
23 prosecute, but there would have been a very strong argument for
24 the statute of limitations would have applied because she never
25 identified Mr. Ronaldo by name. And so technically, that's not

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1 a report that would satisfy the (unintelligible) statute.

2 THE COURT: And it's your position that plaintiff
3 submitted those to Metro to gain leverage in the case, to gain
4 leverage in the negotiations, and of course that -- your
5 position is that's improper use of those documents and didn't
6 turn those over to you so you didn't know what was happening.
7 Just make sure I understand where you guys are coming from.

8 MS. WORKS: Absolutely, your Honor. It was improper
9 to obtain the documents outside of the judicial process. It
10 undermines the integrity of this entire case. It -- certainly,
11 it's improper to obtain attorney/client privilege documents
12 intentionally.

13 And that's what Mr. Stovall's cover letter on behalf
14 of plaintiff to Football Leaks says exactly that. It
15 specifically requests attorney/client communications and work
16 product. He's asking for those things. And it begs the
17 question of, you know, there could be some argument that he's
18 made that, "Well, it was already in the public eye. It was
19 leaked already."

20 Well, if that was the case, then why didn't
21 Mr. Stovall just go get the leaked documents from the internet?
22 No. He went a step further and intentionally sought out from
23 Football Leaks every thing that they had, the entire universe
24 of attorney/client communications.

25 THE COURT: This is that e-mail or document that was

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1 sent that has, like, 12 things that he requested and some of
2 that, you know, talks about the negotiations leading up to the
3 mediation, a report and communications of the attorneys --

4 MS. WORKS: Investigators.

5 THE COURT: Correct. Correct.

6 MS. WORKS: So (unintelligible) you have a licensed
7 attorney knowingly seeking out attorney/client privileged
8 communications and work product, expressly asking for those
9 things, obtains those things, and then goes to law enforcement
10 and says, "Hey, here you go, prosecute this decades-old crime.
11 And by the way, I'm going to go file a lawsuit too to try to
12 get my client more money using all of the lawyers'
13 attorney/client privileged communications and work product."

14 And, your Honor, if it's on balance of evidence, we
15 have provided declarations from Mr. Wright, from Mr. Osorio
16 DeCastro, and then also from Ms. Janeen Isaacson, former state
17 bar counsel, documenting that, in fact, she's reviewed these
18 documents. She's reviewed Mr. Stovall's correspondence and his
19 use of those documents throughout these proceedings and that
20 it's absolutely a violation of his ethical cannons, that it's
21 absolutely attorney/client privilege which should not have been
22 intentionally sought out or used in this litigation.

23 And so on balance of the evidence, the Court is
24 looking at, well, who has presented evidence of crime fraud or
25 should there be an in-camera review. Plaintiff, who has the

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1 burden to demonstrate that there's a reasonable likelihood of
2 showing crime fraud, has not provided the Court with any
3 evidence other than a self-serving affidavit of counsel to say,
4 "Well, I went and got these documents, your Honor, but it's
5 justified. So now rubber stamp my misconduct from three years
6 ago and look at all these documents and provide that the crime
7 fraud applies."

8 That's not where we are in these proceedings. If they
9 wanted to obtain these documents, there would have been a
10 vehicle by which to do that within the litigation. But that's
11 not what happened. And that's what has undermined the entire
12 integrity of these proceedings.

13 THE COURT: Thank you.

14 So Mr. Stovall, when you -- you know, you look at your
15 contact with this John and what it is you're requesting, you
16 know, at first blush, it looks like, you know, perhaps you -- I
17 mean, if these were out in the public anyway, then you would
18 have had that avenue to get them and they clearly wouldn't have
19 been attorney/client privilege, but you went apparently
20 directly to this guy who sent them directly to you. It has a
21 bad look.

22 MR. STOVALL: All right. The Court -- the context of
23 the request was this. This was in, I believe, 2019 if I recall
24 the correspondence.

25 THE COURT: 2018.

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1 MR. STOVALL: 2018.

2 The Football Leak documents had been obtained prior to
3 2018 and were published. They were delivered over to Der
4 Spiegel and to a group of newspapers or news organizations in
5 Europe called EIC. Those entities had been publishing articles
6 about corruption within the European Football Federation, the
7 teams and the managers and things. And in fact, those
8 publications ultimately led to criminal charges, primarily tax
9 fraud, being brought against a number of football players
10 including Ronaldo and -- which he pled in 2018 to tax fraud
11 under Spanish Law.

12 Those documents, the specific documents were not in
13 the public as far as I know in any depository. In fact, I went
14 to Der Spiegel and I also went to the -- and asked them for
15 those documents and they would not release them. I had
16 asked -- I tried to get a hold of former counsel for the
17 plaintiff, the lawyer that was involved -- that's Michaela
18 Woods -- and she refused to give me any documents out of her
19 file.

20 What was clear in the publications that had been made
21 throughout Europe prior to 2018 was that there was -- it
22 appeared, to me, to be a conspiracy to prevent or interfere
23 with the prosecution of Ronaldo for the rape of Mayorga.

24 Now, none of this would have come up if there hadn't
25 been the April 2017 publication by Der Spiegel of the rape and

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1 the settlement. And that article sufficiently identified
2 Ms. Mayorga, didn't name her, but people knew who it was and
3 she had been contacted by a number of news organizations and
4 also friends and other people about that incident.

5 I was unable to obtain any documents and so I sent out
6 an inquiry to John at Football Leaks and I received two
7 responses. I've been very upfront about this throughout the --
8 this case. It's -- if you look at the complaint that was filed
9 in the Clark County District Court, I outlined exactly what I
10 did, and if you look at the complaint in this court, I outlined
11 exactly what I did and what I obtained and what I did with
12 those documents.

13 I received two sets of documents from John at Football
14 Leaks. John at Football Leaks -- the first set of documents, I
15 turned over to Metropolitan Police Department in August of 2019
16 and I requested that the Metropolitan Police Department do two
17 things: One, investigate -- reopen the investigation on the
18 rape, and two, to investigate compounding and fraud.

19 When I received the September correspondence or
20 documents from John at Football Leaks, I turned those over to
21 Metro also and -- with a renewed request that they investigate
22 and reopen their investigation of Ronaldo for the rape and also
23 of the other people that participated in the compound.

24 THE COURT: Did you turn over everything that you
25 turned over to Metro to defense counsel?

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1 MR. STOVALL: I did. I absolutely did.

2 And this idea that I held back 400 pages of documents,
3 I have -- and I put it in my affidavit to the Court or my
4 declaration to the Court, I don't know where those came from.
5 I hadn't seen them before. No idea.

6 And I have admitted that the documents, which is the
7 August -- (unintelligible) August cover letter and then the
8 September cover letter are the same documents that I disclosed
9 in disclosures here in this Court. I did it under Rule 26 as
10 initial disclosures. And those are the same documents I
11 exhibited to the Court in opposition to their motion to compel
12 arbitration.

13 So those are the only documents I got. I don't know
14 where this other stuff came from for Metro. I did not have the
15 Metro file. There was an ongoing investigation. They wouldn't
16 have given it to me even I had asked for it. I had no idea
17 what's in the Metro file.

18 I know that Ms. Mayorga had been interviewed and a
19 number of witnesses and people who witnessed the -- who were
20 around that incident were interviewed by Metropolitan Police
21 Department. I had no access to that information. And I don't
22 believe -- well -- and I never asked for it, quite frankly.

23 Metro, by the way -- defense stood up here and said
24 Metro did nothing with it or decided not to prosecute. I don't
25 think that's accurate. And you have in the record of this case

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1 an affidavit requesting the issuance of an arrest warrant
2 signed by the investigating officer of Metropolitan Police
3 Department seeking a warrant to arrest the defendant, Cristiano
4 Ronaldo, for sexual assault.

5 What happened is when that was submitted to the
6 district attorney's office, Mr. Wolfson declined to prosecute.
7 He doesn't say why he decided to decline and anything -- any
8 argument is just speculation. It was within the statute of
9 limitations. The police believed that they had a case to
10 prosecute for one count of sexual assault and the DA decided
11 not to.

12 But whatever else -- whatever information they had,
13 whatever information they relied upon, you can read the
14 affidavit -- it's in the record of this case. It's -- by the
15 way, it's a very comprehensive statement of what the
16 Metropolitan Police Department believed occurred.

17 And the basis for the requests --

18 THE COURT: We're getting far field now from where we
19 started on this discussion.

20 So you're telling me that what you gave to Metro was
21 about a couple hundred pages of documents that you received
22 from the Football Leaks request for information?

23 MR. STOVALL: Correct.

24 THE COURT: And you don't know -- to the extent they
25 had another couple hundred pages, you have no idea where that

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1 came from but it wasn't provided by you or anybody from your
2 office?

3 MR. STOVALL: I reviewed that 400 pages. I don't
4 recognize those documents. They appeared to me to be the
5 documents I submitted, but they were reformatted. That's what
6 it appeared to me. So I have no idea where they came from.

7 I do know that my office had sent the -- I believe
8 what have -- one of the things that happened was that my office
9 forwarded the e-mail from John at Football Leaks and perhaps
10 what they did was reprint that and it came out in a different
11 format than what was printed by my office, but I have no way of
12 knowing where those documents came from and defense hasn't
13 been -- there's no -- defense hasn't told you where they came
14 from. They're simply saying it must have come from me.

15 Well, no. I've denied that. I've been very clear
16 with this Court as to what I submitted. And I had Bates --
17 originally when I submitted those documents to Metro, I Bates'd
18 them. You'll find my original Bates-stamp on those documents
19 right behind that letter including the e-mails between myself
20 and John at Football Leaks.

21 THE COURT: Well, on that note, would you agree -- I
22 mean, aren't you asking for attorney/client information from
23 John?

24 MR. STOVALL: Well --

25 THE COURT: I mean, when I look at this, I mean, there

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1 seems -- it seems to be rife with attorney/client information.

2 MR. STOVALL: Sure. I did.

3 And the reason I asked for that is because in the
4 agreement, if you look at the settlement and confidentiality
5 agreement, the individual that was vested with maintaining
6 those documents as confidential were Ronaldo's attorneys. And
7 what I wanted to know was, is there any evidence or anything
8 that would suggest how those documents were released or came to
9 be obtained by third parties.

10 Now, this is a case where if you look at Jackson and
11 the Schwanker [sic] case, that's the Xyngular versus Schwanker
12 case, every one of these cases where you see that there's been
13 sanctions, terminal sanctions or disqualify -- a
14 disqualification of a party or counsel, it's where the party
15 who obtained participated in the acquisition of those
16 documents.

17 That is not what happened here. I have no idea where
18 these documents came from. I have asked --

19 THE COURT: So when you contacted John, you didn't
20 know that these documents were obtained from a hack, from the
21 lawyer's computers?

22 MR. STOVALL: No.

23 THE COURT: How else -- how else would you get such --

24 MR. STOVALL: Well, I don't know.

25 THE COURT: I mean, put yourself -- you've been a

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1 lawyer for a long, long time. I mean, think about the --

2 MR. STOVALL: I don't want to play games with you.

3 It was -- when I looked at these documents, it

4 appeared that these were e-mail documents between parties.

5 Okay? When I asked for all correspondence and all

6 communications, I didn't know if it was going to come from the

7 computer or from some other source. But I did request that.

8 It's in my writing. I'm not denying that -- what I requested

9 as what's in that e-mail.

10 My point to the Court, though, is this: I didn't
11 participate in obtaining those documents. Those documents were
12 acquired two, three years before my request went to John. And
13 there is no evidence in this case, and I don't think there is
14 anywhere else unless you accept the newspaper reporting, that
15 John is the hacker. He denies it. And all the reports.

16 THE COURT: But does any of that matter?

17 MR. STOVALL: Yes, it does.

18 THE COURT: Why? I mean, as an officer of the Court
19 and, you know, a practicing lawyer governed by the Rules of
20 Ethics and all those rules that govern lawyers' behavior, just
21 because you didn't do the hack and just because they had been
22 out there for -- they're still nonetheless attorney/client
23 material that you're using to forward -- so whether you did the
24 hack or anything else, you reached out to someone who had them.

25 MR. STOVALL: Well, within the context of this case,

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1 it's not only is this information -- there is -- so the
2 questions that haven't been answered that I think are
3 absolutely essential for the Court to make the decision in this
4 case on terminal sanctions or in the requests for
5 disqualification is: How did these documents get into the
6 public? Were they really hacked? When did that occur? How --
7 to what extent does anyone know how it occurred and where did
8 they go?

9 Now, they eventually ended up with John at Football
10 Leaks, and they were eventually published and --

11 THE COURT: So you're saying at some stage, the time
12 and the exchange of the documents through people somehow
13 absolves them -- you and others who later on might use that?
14 It's all okay even though they're out there?

15 MR. STOVALL: Yeah, I think there's a -- I think when
16 you really talk about how these documents came to -- into my
17 possession, that there's a real question of whether or not
18 there was a waiver of the attorney/client privilege if such a
19 privilege applies without consideration of the client -- crime
20 fraud exception.

21 THE COURT: How did they waive it?

22 MR. STOVALL: What?

23 THE COURT: How did they waive the attorney/client
24 privilege?

25 MR. STOVALL: Well, there's case law that says if you

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1 get stuff out there in the public and you don't go and try to
2 protect it --

3 THE COURT: How can they protect it if they didn't
4 know it was out there?

5 MR. STOVALL: They did know. They knew in 2015 when
6 this stuff was being published in Europe.

7 THE COURT: How did they know the publishing was based
8 upon attorney/client confidential information?

9 I mean, you just alluded to yourself, and I think we
10 can all agree, that the press and what's out there, we can't
11 necessarily always believe.

12 So I mean, is the attorney -- you know, an attorney
13 probably has to make a determination, "Look, this is a bunch of
14 BS. We don't trust the press. So do I really want to go raise
15 a stink" versus if they really know that the attorney's
16 computer system has been hacked and they've taken all the
17 attorney/client e-mails.

18 Did they -- you think they really knew that, that they
19 had done that, that they had taken it and they therefore waived
20 it?

21 MR. STOVALL: No. I think -- I think you're asking me
22 the -- pointing out the same issue that I'm pointing to you is
23 I don't know, but what I do know -- I don't know how it came or
24 who got it and what they thought of that information.

25 But the fact is we don't know how that information

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1 came out of, let's say, Ronaldo's attorneys' computers. We
2 don't know if Ronaldo's attorneys didn't release it
3 voluntarily. We don't know if -- and that's the problem with
4 the affidavit from Mr. Ronaldo's lawyer, DeCastro, is he
5 doesn't even say where those documents came from. He just
6 says, "Oh, I had good security."

7 Okay. You had good security but what about those
8 documents? Were they stolen? He doesn't say that. There is
9 nothing in this record that establishes these documents were,
10 in fact, stolen.

11 All we have are newspaper publications. If you want
12 to rely on them, fine. Because those newspaper publications
13 also tell you that John has denied hacking. He said they came
14 from multiple sources. And the point is, that if they came
15 from multiple sources, how can you say they were illegally
16 obtained.

17 And furthermore, they were published. They were
18 published all over Europe. There's a book written about these
19 documents. One of the writers at Der Spiegel published a
20 series of books on the Football Leak documents. And it was in
21 these documents, according to the press, because I tried to
22 talk to John -- his name's Rui -- Rui -- I can't remember his
23 last name, but he -- he was arrested in Hungary and extradited
24 over to Portugal and I tried to speak to him and his lawyer
25 wouldn't let me talk to him.

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1 THE COURT: Rui Pinto.

2 MR. STOVALL: Yeah, that's correct. Rui Pinto.

3 And Mr. Pinto's lawyers, I asked to be able to speak
4 to Mr. Pinto to authenticate these documents and explain to me
5 where they came from and they declined to allow me to do that.

6 THE COURT: So what you're telling me then is -- so
7 there's a couple reasons. There's the waiver. There's the
8 crime fraud exception.

9 And is there anything else then that would undo the
10 attorney/client privilege that I'm missing that you're --

11 MR. STOVALL: No.

12 THE COURT: -- arguing?

13 MR. STOVALL: No. The cases, as I understand them,
14 that once this stuff starts going out, if the person asserting
15 the privilege, they have to take reasonable steps to stop it.
16 They have --

17 THE COURT: So are you saying then that when you got
18 this, you looked and said -- you were thinking, "I'm going to
19 ask for these materials from John. And when he sends them to
20 me and I look and it looks like attorney/client privilege, I,
21 Mr. Stovall, am looking at these things and saying, you know
22 what, this has been out in the public for three, four" --
23 whatever it's been -- "on any number of platforms. So number
24 one, they waived it. And then number two, I, Mr. Stovall, am
25 looking and analyzing this saying that it's a crime fraud

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1 exception and so I can go and run with these."

2 Is that -- is that the process, the thought process
3 that was going on or?

4 MR. STOVALL: Yes, it certainly was.

5 When I looked at these documents and looked at the
6 length of time they had been out in the public, the lack of
7 information about where they came from, the failure of the
8 defendant to do anything to preserve or protect those documents
9 after their publication over such a period of time and the fact
10 that he had pled guilty to tax fraud based upon the disclosure
11 of these documents in Europe, and when I looked at those
12 documents and it became clear to me that -- or it appeared to
13 me that these people were engaged in compounding a felony, I
14 didn't think the attorney/client privilege applied. That was
15 my opinion and I acted upon it.

16 And I don't think that a lawyer should be sanctioned
17 or a plaintiff should be sanctioned if those factors are true.
18 Because otherwise, what you are doing is you're saying there is
19 no way to protect a plaintiff against a party with their
20 lawyers who engage in this type of conduct. And I think that's
21 exactly what the Supreme Court was talking about in Zolin.
22 This sort of takes us back to the crime fraud.

23 But I really want to distinguish the crime fraud
24 exception from the waiver issue.

25 THE COURT: And I guess I -- so in closing, I'd say,

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1 so you really think these lawyers back in 2010, 2009, 2010 were
2 conspiring to keep Mr. Ronaldo from being charged criminally
3 and they weren't just doing what lawyers do, that's
4 representing him and trying to get their client out of a sticky
5 situation by --

6 MR. STOVALL: Absolutely. I really do.

7 When I read the correspondence and their
8 communications and what -- and I've cited to it in my briefing
9 where they say, "We accomplished our goal which was to keep you
10 from being prosecuted and now you ought to pay us that \$550,000
11 that we billed you," I don't know what's clearer.

12 And there's a lot of case law around the country that
13 that's really outside the bounds of legality.

14 THE COURT: In the context of sending somebody a
15 letter or a missive or a communication saying, "You should pay
16 our fee because we did this, this, and, this," that doesn't put
17 that statement in a different context?

18 MR. STOVALL: No.

19 THE COURT: "We helped you to avoid criminal charges."
20 I mean, that could mean that we provided the district attorney
21 or we provided Metro with other ancillary information that they
22 would not have otherwise had, that if you had not retained us
23 we wouldn't have been able to provide to Metro. That helped
24 you avoid criminal prosecution.

25 I mean, criminal defense attorneys do this all the

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1 time when they're negotiating with Metro and with the DA's
2 office in the context of trying to get the best result for
3 their client. That rises to the level of --

4 MR. STOVALL: The defense lawyers that I know who are
5 negotiating with Metro and are dealing with a victim are very
6 careful in not discouraging the victim from participating in a
7 criminal investigation.

8 THE COURT: So what do you have then that they had
9 that is the smoking gun, best piece of evidence that they tried
10 to dis-waiver from participating in the criminal investigation
11 besides a civil settlement?

12 MR. STOVALL: Well, what is the evidence? I've
13 summarized it in my briefing both back when I was opposing the
14 motion for arbitration and recently, but I'll summarize it for
15 you.

16 This --

17 THE COURT: Humor me.

18 MR. STOVALL: Pardon?

19 THE COURT: Humor me.

20 MR. STOVALL: I don't mind. I don't mind.

21 They had done a background investigation and they knew
22 that this individual, that's Ms. Mayorga, had the belief that
23 she was very vulnerable to a very powerful individual and she
24 was frightened of publicity.

25 And if you look at the correspondence between the

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1 lawyers involved in this, they worked that angle. What they
2 did is they -- and you'll see it throughout the negotiations.
3 "Well, if you continue to talk to Metro, we're not going to
4 continue settlement and we are going to publically accuse you
5 of extortion, that you had consensual sex and that you're now
6 trying to extort money from this famous, well-known person."
7 And she was terrified of that. And that continued to be
8 repeated and repeated and repeated throughout their
9 correspondence. There was a threat.

10 And she complied. She stopped talking to Metro. And
11 you can look at the investigative report from Metro and you
12 will see she stopped speaking to them early on. Why? Because
13 she was threatened with public exposure and humiliation by
14 defendant's attorneys. And it's documented in those e-mails.

15 And it continues to be --

16 THE COURT: The e-mails -- what type of -- e-mails
17 between whom?

18 MR. STOVALL: Well, those are the Football Leak
19 documents. You know, your exhibits --

20 THE COURT: The privileged documents.

21 MR. STOVALL: -- that we have in the case.

22 THE COURT: That gets back to the -- they're
23 documented in the privileged documents.

24 I mean, these aren't letters that they're sending to
25 her lawyers saying that if she continues --

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1 MR. STOVALL: These are communications to her lawyers
2 that are being confirmed in their e-mails between themselves.

3 THE COURT: Well, that therein lies the rub. It's all
4 the documents that are the e-mails between themselves.

5 MR. STOVALL: Well, it does take us to the crime fraud
6 exception. And I thought you were asking me what evidence is
7 there that --

8 THE COURT: No, I --

9 MR. STOVALL: -- there was actually compounding
10 occurring.

11 And if you -- if you read through those documents,
12 which I -- we've identified as Football Leak documents in this
13 case, which I saw and turned over to Metro, it is -- doesn't
14 take a lot of imagination to understand what these lawyers and
15 these -- by the way, lawyers involved in this stuff, this was
16 their business. They protect reputations. They're this group
17 out of California and another group out of England that this is
18 what they do. And they knew what they were doing and they were
19 successful.

20 And by the way, not only did they get the agreement,
21 ultimately, when you look at what Metro -- how Metro handled
22 this thing, they were ultimately successful. They delayed
23 prosecution, and when Metro reopened it and then decided that
24 they had a case and asked the DA to prosecute it, he deferred.

25 When you put all this together, it is a startling

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1 case. I can't think of -- to me, I can't think of a more
2 clearer case of an obstruction or a compounding of a crime by
3 lawyers and a party.

4 THE COURT: And so at no time when you were exchanging
5 information with John did you ask him how he got these
6 documents, how they -- you didn't get into the specifics of
7 that? You just --

8 MR. STOVALL: I did not.

9 THE COURT: Okay. You just --

10 MR. STOVALL: I did not. I just simply --

11 THE COURT: Whatever you --

12 MR. STOVALL: You got my communications with him.

13 THE COURT: Right.

14 MR. STOVALL: Everything I did, I've given to the
15 Court.

16 THE COURT: Right.

17 MR. STOVALL: And again, I disclosed that, I
18 identified that stuff in the complaint filed in both of the
19 courts, the Clark County --

20 THE COURT: Is there a reason why you delayed so long
21 turning it over to defense counsel?

22 MR. STOVALL: Well, our first date for disclosure was
23 with the Rule 26 exchange here.

24 THE COURT: All right. So that was done. That's why
25 the documents were finally turned over was the --

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1 MR. STOVALL: Absolutely.

2 THE COURT: Okay.

3 MR. STOVALL: Although, I will tell you, there's
4 correspondence in October of -- I'd have to find it. There was
5 a letter that I sent to Mr. Christiansen. Let me find it.

6 THE COURT: Well, I think in September of 2019, he
7 sent you e-mails that the documents that you had were
8 privileged. I think that's the first time as far as I can tell
9 from a --

10 MR. STOVALL: No. I sent him some correspondence
11 where --

12 MS. WORKS: (Unintelligible) 2018.

13 THE COURT: Right. That's when in October 2018,
14 apparently Ronaldo's lawyers publically declared that they were
15 fabricated or altered, the Football Leaks documents, and then I
16 think you sent a letter or e-mail asking Mr. Christiansen to
17 identify --

18 MR. STOVALL: That's correct.

19 THE COURT: -- ones they believed were altered and so
20 the discussion was --

21 MR. STOVALL: So -- so I point that out to the Court
22 for several reasons. What is being said here publically by
23 Ronaldo and his lawyers is, "We know what the Football Leak
24 documents are. And they're fake. They're made up." And this
25 is not true, what's going on -- what's being alleged.

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1 And my response was, "Okay. Tell me what's not true.
2 I'd like to know." And that's based on their assertion that
3 they knew what those documents were. Because that's what they
4 were saying publically.

5 And so it's a little surprising, I suppose, to have
6 them say, "Well, we just didn't know what was going on. We had
7 no idea what these documents were. Therefore, Mr. Stovall is
8 holding it back."

9 Well, within this litigation, it was under Rule 26
10 that the disclosure was made to the defense. That's correct.

11 THE COURT: All right. All right. Ms. Works?

12 MS. WORKS: Yes, your Honor.

13 THE COURT: There's a lot to address, but do your
14 best.

15 MS. WORKS: Thank you.

16 So first, as to this waiver issue, the waiver of the
17 attorney/client privilege, first, I would point out that the
18 Court has already ruled on that issue, both your Honor and
19 Judge Dorsey, with respect to multiple arguments in response to
20 our motion to strike and seal the Football Leaks documents, the
21 original Exhibits 4 and 5. The Court already found, after
22 extensive briefing both on the underlying motions and the
23 objections to your Honor's order, that Mr. Ronaldo and his
24 lawyers had not waived any attorney/client privilege and that
25 this situation was entirely distinctive and sufficient protocol

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1 and precautions had been taken.

2 But second, if there was any doubt left, your Honor,
3 if the Court would look at Exhibits A and E to our reply brief
4 in support of the motion for case terminating sanctions, you
5 find declarations both from Mr. DeCastro and from Mr. Wright.
6 And in both of those declarations, they indicate that -- and
7 I'll quote here for the -- for your Honor from Mr. Wright's
8 declaration at paragraph 7, "Neither I nor Mr. Ronaldo ever
9 authorized or caused to be released any of the aforementioned
10 confidential and privileged attorney/client communications
11 and/or work product."

12 He goes on in paragraph 8, "Absent a binding court
13 order or expressed waiver from Mr. Ronaldo, I would never
14 authorize or cause to be released the confidential and
15 privileged attorney/client communications and work product
16 related to Ms. Mayorga's allegations against Mr. Ronaldo
17 because to do so would be a violation of my ethical duties as a
18 lawyer for Mr. Ronaldo."

19 So you have declarations from both of them and then
20 the earlier declaration from Mr. DeCastro about the safety
21 measures and protocols that were in place to safeguard
22 documents.

23 We also attached to our underlying motion, your Honor,
24 when the Football Leaks documents originally came out, what
25 happened is Mr. Ronaldo's attorneys in Europe were contacted

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1 and asked for comment, not provided copies necessarily of what
2 was out there, but they did take an extra step at that point,
3 and Mr. DeCastro affirms in his affidavit that we've attached,
4 authentic translations of court documents filed in Germany and
5 Portugal in which Mr. Ronaldo's counsel sought to have any
6 further publication quelled and to prevent anybody from further
7 dissemination of any of the hacked documents.

8 So there's that issue that you have all of these --
9 that you have security measures in place. You have both
10 evidence from both Mr. Ronaldo's local attorneys in 2009 and
11 2010 and his European lawyers saying, "We never authorized
12 disclosure of any of these documents. In fact, we went and
13 tried to get a court order stopping any further publication
14 because the disclosure was never authorized."

15 But you'll also have Mr. Stovall conceding he couldn't
16 get these documents from anywhere else. He conceded to
17 (unintelligible) his argument there, your Honor, that they were
18 not in the public eye, that even Der Spiegel refused to give
19 him all of these documents.

20 So he went straight to who he knew was the source and
21 specifically requested attorney/client privileged
22 communications and work product. His e-mail could not be any
23 clearer. He couldn't get the documents from anywhere else so
24 he went to the source, the Football Leaks hacker, and asked for
25 privileged attorney/client communications which he then relied

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1 on in prosecuting this case.

2 And this idea that he wasn't required to disclose any
3 of these documents to defendant until the initial disclosure
4 deadline is patently false, your Honor.

5 If you look at the Isaacson affidavit and our ethical
6 cannons, you -- once you obtain, even innocently -- these
7 documents fell on his desk yesterday -- he has the obligation
8 to say, "Oh, these say attorney/client privilege all over them.
9 They say attorney-work product. I have the obligation to then
10 promptly go to opposing counsel and say, 'Hey, these
11 attorney/client privilege documents landed on my desk. I have
12 them. And I'm turning them back over to you because I clearly
13 am not supposed to have them.'"

14 So even if he had innocently obtained these documents,
15 somebody miraculously dropped them on his desk, he would have
16 had an obligation at that point to go to Mr. Ronaldo's lawyers
17 and say, "Hey, I have these documents. They're attorney/client
18 privilege. I'm not supposed to have them."

19 As opposed to that, Mr. Stovall, on behalf of
20 plaintiff, goes out, intentionally obtains them, looks like a
21 lot like the Microsoft and Schenkel cases where you have
22 somebody who goes out and obtains the document. And there the
23 plaintiffs didn't obtain them themselves either. They did just
24 what plaintiff here did, obtained them from a third-party
25 source, then used, digested, analyzed the documents for months,

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1 used them to prosecute their case, and then disclosed some --
2 in one case, they disclosed all the documents, and in another
3 case, the plaintiff didn't disclose everything.

4 Here, we have both a failure to disclose everything
5 but a failure to timely disclose in the first instance. And
6 then using and digesting the documents.

7 And federal courts there found and the Ninth Circuit
8 affirmed in an unpublished decision in Microsoft that dismissal
9 was the appropriate sanction because you can't circumvent the
10 integrity of the judicial system by going out and intentionally
11 invading the attorney/client privilege and then using those
12 documents to prosecute your case. You simply can't do it. It
13 violates your ethical cannons. It violates federal law. And
14 it's exactly what happened here.

15 So he concedes they're not in the public light. He
16 goes out and he obtains them. There's been no waiver because
17 the only evidence in the record is that Mr. Ronaldo's attorneys
18 acted to quell the distribution. Our office acted immediately
19 upon disclosure of the documents, sent a letter the following
20 day when we got them.

21 And the October 2018 letter to our office doesn't say,
22 your Honor, tellingly, "Hey, I have copies of all these
23 documents," or even at that point, "Hey, Mr. Christiansen,
24 here's all the documents I got. Which ones do you say are
25 altered?"

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1 No. They just say, "Which of the Football Leaks do
2 you contend were altered?" We don't respond. We don't have
3 the universe of that Football Leaks documents that he has. We
4 don't know what he has. We don't know he has all of the
5 attorney/client privileged communications.

6 And his complaint is very specific. It's a protection
7 -- reputation protection specialist. His team of fixers. He
8 never says in the complaint -- plaintiff verified the state
9 court complaint and then in the federal court complaint. It
10 never referred to having attorney/client communications.

11 So that's not disclosed until 14 months after he
12 obtained the records, the stolen privileged documents from
13 Football Leaks. Fourteen months later, he discloses it, but by
14 then, the damage is done, your Honor. He's already used it to
15 prosecute his case. He hasn't disclosed the documents.

16 I mean, you can't extract that information from the
17 complaint, the briefings that followed, or Mr. Stovall's mind.
18 That's why disqualification alone is not sufficient. Rather,
19 the remedy is dismissal. Because we can't extract those from
20 the briefings from another lawyer to come in and take over the
21 case and not rely on that information.

22 And plaintiff herself relied on that information.
23 She's filled in the blanks with both Metro in her statement and
24 in her interview with Der Spiegel. And so you can't --
25 plaintiff can't un-know that information either. And there's

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1 no safety precaution in place that this court or anybody else
2 could impose that would effectively preclude plaintiff or even
3 future counsel from being able to use that information, whether
4 intentionally or not. She simply can't un-know it.

5 So we have no waiver. The Court has absolutely the
6 discretion to impose dismissal as the sanction.

7 And then the crime fraud exception. Everything he
8 argued to, your Honor, when the Court asked for evidence was
9 evidence contained within the privileged documents. There is
10 no evidence of a fraud otherwise.

11 And I would contend to your Honor that even those
12 privileged documents don't show a fraud. They show a lawyer
13 representing their client. If saying, "Hey, we got you a
14 successful result and now we want you to pay our bill," is
15 fraud, your Honor, we're all in a lot of trouble. It happens
16 in a number of cases every year. Law firms across the country.
17 You do a good job, you want to get paid. Sometimes you have to
18 point out that did you a good job in order to encourage your
19 client to pay your bill.

20 That -- even if the Court considers it, which it can't
21 because it's absolutely attorney/client communication that's
22 privileged, even if the Court could consider it, it's not
23 evidence of fraud, your Honor. There's no evidence of fraud.

24 And the only evidence the Court can consider that's
25 not privileged is the settlement agreement. And that's simply

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1 an agreement to limit liability which both parties complied
2 with for more than a decade.

3 THE COURT: So Mr. Stovall, I guess -- one question
4 for you.

5 Why -- when all of this stuff is labeled
6 attorney/client, why isn't that under the cannons something
7 that you would immediately provide to the attorney who's the
8 subject of the -- of the e-mails and the information?

9 I mean, isn't that something the cannons say that you
10 should be providing to that lawyer and say "Hey, look, I've
11 come into possession of this," or is this something that was a
12 part of your case and you were thinking "I'm not going to turn
13 over until I have to according to the rules"? I mean --

14 MR. STOVALL: Well, we have the Merits -- Merit
15 Incentive, LLC, Eighth Judicial District Court case here in
16 Nevada that says RPC 4.4 is satisfied with an NRCP 16.1
17 disclosure. And that's what I did in this case.

18 THE COURT: All right.

19 MR. STOVALL: Now -- if I may?

20 THE COURT: On what?

21 MR. STOVALL: Well, I'd like to respond to her
22 statements.

23 THE COURT: Well, it's their motion and you've had the
24 response and they've replied.

25 Is there something specific you think you need to

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1 address in their argument?

2 MR. STOVALL: I do.

3 The defense, and I'm concerned the Court, have both
4 taken a position that the documents -- this Court has decided
5 that the Football Leak documents, those are the documents
6 within this case, are, in fact, attorney/client privilege.

7 They may well be. The Court may decide they are, but the Court
8 has not made that decision to date.

9 And the Wella [phonetic] case, which I cited, speaks
10 about the burdens on the parties that are asserting the
11 attorney/client privilege and what the Court must do to
12 determine attorney/client privilege.

13 Effectively, what the defense has done here is they've
14 said -- asserted a blanket privilege. There has been no
15 analysis made of the particular documents to determine whether
16 or not they are within the attorney/client privilege, notwithstanding
17 the application of the crime fraud exception.
18 They've never asked for that and this Court has never
19 specifically said documents in this case -- they've stricken
20 them, but they haven't identified the documents that are
21 subject to the attorney/client privilege.

22 Secondly, the -- when you look at DeCastro and they
23 talk about the petitions that were filed in Europe, the German
24 and I believe it was Spain, those petitions were -- if I read
25 them correctly, they were denied. The European courts did not,

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1 as I read them, grant injunctive relief.

2 So furthermore, when I read them, it appears to me
3 that the courts in Europe felt that the defendant had not taken
4 appropriate steps to protect those documents on their
5 publication. And I think the Court ought to look at those if
6 the Court is going to rely upon those documents to determine
7 that there was no waiver in this case by their failure to act.

8 The statement from counsel that the defendant never
9 waived or -- excuse me -- authorized disclosure of documents
10 doesn't answer the question. The question really is: How did
11 those documents get away from the defendant? How did they get
12 away from the defendant? And that hasn't been answered by the
13 defense. And if anybody knows how those documents got away
14 from them, they would know.

15 There's nothing in this record that says they were
16 hacked. There's nothing in this record that says they were
17 stolen. It says, "We didn't authorize." That doesn't mean
18 that they were not accessed or given up in some other way.
19 It's a very easy statement to say "We didn't authorize that,"
20 but that doesn't answer the question with regards to what did
21 they do to protect those documents, which under the agreement,
22 they had a fairly high standard for protection.

23 And by the way, that is also an element of the breach
24 of contract because when you look at that confidentiality
25 agreement, it was the documents were vested with the attorneys

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1 and the attorneys had a fairly high standard to meet and they
2 didn't do it.

3 THE COURT: Seems to me they weren't out there
4 anywhere but with this John guy and that's why you had to go to
5 John to get them, but I understand your argument.

6 MR. STOVALL: All right. Well, thank you, your Honor.

7 THE COURT: All right. Ms. Works, very, very briefly.

8 MS. WORKS: Briefly, your Honor, for clarity of the
9 record.

10 I would just point the Court to paragraph 2 of
11 Mr. DeCastro's declaration which is Exhibit A to our reply
12 brief in support of case terminating sanctions. He
13 specifically says, "Notwithstanding security measures taken to
14 protect confidential data in or around 2015 or 2016, outside
15 third-party hackers stole confident client data and information
16 including documents and information related to Kathryn
17 Mayorga's allegation that Mr. Ronaldo sexually assaulted her in
18 June 2009 in Las Vegas, Nevada."

19 He then goes on to outline the attempts to quell
20 publication of hacked documents in Europe and then further
21 indicates he's reviewed the documents in this litigation, the
22 Football Leaks documents eventually, albeit 14 months later,
23 produced by Mr. Stovall and affirms that neither he nor
24 Mr. Ronaldo -- and let's recall it's Mr. Ronaldo's privilege --
25 ever waived or authorized any sort of distribution or

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1 dissemination of the information.

2 And the allegation that Ms. Mayorga was somehow afraid
3 of and bullied by the lawyers, which is all, by the way, based
4 according to Mr. Stovall on the privileged document, it still
5 remains a fallacy.

6 Even if the Court could consider those documents, the
7 reality is Ms. Mayorga stopped cooperating with the police --
8 and this is in the Metro file -- long before Mr. Ronaldo was
9 ever aware of these allegations. He became aware because she
10 opted not to pursue the case criminally, contacted civil
11 counsel, and it was civil counsel and the correspondences
12 attached to pleadings here, the civil counsel who reached out
13 to Mr. Ronaldo's lawyers who he then obtained and retained
14 local counsel, Mr. Wright, here in order to defend against
15 Ms. Mayorga's allegations. He was not contacted about the
16 criminal case at that point because he was never identified.
17 It was all based on the civil case, a civil case that back then
18 was resolved and today is based on stolen privileged documents.

19 THE COURT: All right. I certainly understand the
20 party's positions.

21 I will take 111, the defendant's motion for sanctions,
22 under advisement and I will also take 124, the plaintiff's
23 motion for in-camera view, because I think they're tied
24 sufficiently based upon the arguments of the parties, that I
25 will address both of those in a written order and/or report or

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1 recommendation.

2 Mr. Stovall, anything else?

3 MR. STOVALL: No. No. Thank you very much.

4 THE COURT: All right. Anything else from the
5 defense?

6 MS. WORKS: No. Thank you, your Honor.

7 THE COURT: All right. Thank you very much. Enjoy
8 your weekend. Court is in recess.

9 (Whereupon, the proceedings adjourned at 12:38 p.m.)

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16 C E R T I F I C A T E

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18 I, Samantha N. McNett, court-approved transcriber,
19 certify that the foregoing is a correct transcript transcribed
20 from the official electronic sound recording of the proceedings
21 in the above-entitled matter.

22

23 /s/ Samantha N. McNett
24 Samantha N. McNett

25 October 6, 2021
Date